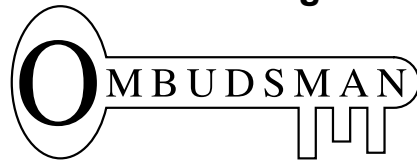


This handbook is published by the
Missouri State Long-Term Care Ombudsman Office
and the
Missouri Department of Health and Senior Services

Copies are available by contacting:

State LTC Ombudsman Office
Department of Health and Senior Services
P.O. Box 570
Jefferson City, MO 65102
573-526-0727
1-800-309-3282

or by going to
<http://www.dhss.mo.gov/Ombudsman>



For more information or to secure the services of an Ombudsman

WRITE OR CALL
Department of Health and Senior Services
State Office of Long-Term Care Ombudsman
P.O. Box 570
Jefferson City, MO 65102

1-800-309-3282

For hearing impaired, call RELAY MISSOURI
Text telephone: 1-800-735-2966
Voice: 1-800-735-2466

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Loss & Theft

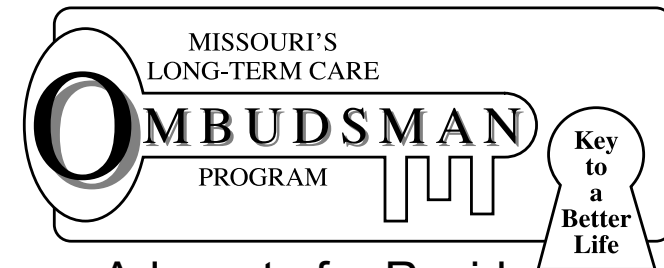
How to prevent it

and

What to do when it happens

in

long-term care facilities



Advocate for Residents

1-800-309-3282

Missouri Long-Term Care Ombudsman Program

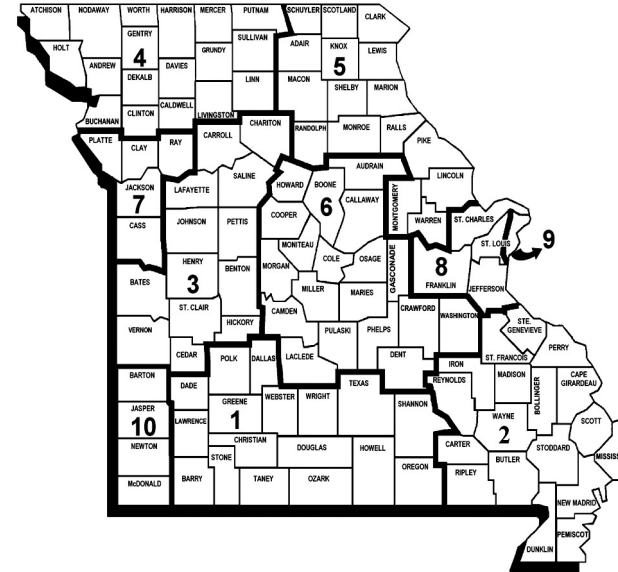
State Office of Long-Term Care Ombudsman

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P.O. Box 570, Jefferson City, MO 65102

(573) 526-0727 or (800) 309-3282

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1. Council of Churches of the Ozarks
627 N. Glenstone
P.O. Box 3947 G.S.
Springfield, MO 65808
(417) 862-3598 FAX: (417) 862-2129

2. Southeast MO Area Agency on Aging
1219 N. Kingshighway, Suite 100
Cape Girardeau, MO 63701
(573) 335-3331 or (800) 392-8771
FAX: (573) 335-3017

3. Care Connection for Aging Services
106 W. Young St., P.O. Box 1078
Warrensburg, MO 64093
(660) 747-3107 FAX: (660) 747-3100

4. Northwest MO Area Agency on Aging
211 South Polk, P.O. Box 265
Albany, MO 64402
(660) 726-3800 FAX: (660) 726-4113

5. LTC Ombudsman Program
8702 Manchester Road
Brentwood, MO 63144
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6. Central MO Area Agency on Aging
1121 Business Loop 70 E. Suite 2A
Columbia, MO 65201
(573) 443-5823 FAX: (573) 875-8907

7. Mid-America Regional Council
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Kansas City, MO 64105-1536
(816) 474-4240 FAX: (816) 421-7758

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9. LTC Ombudsman Program
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Brentwood, MO 63144
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Joplin, MO 64803
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_____ *Loss & Theft* _____

_____ *Loss & Theft* _____

For all State Licensed Residential Care Facilities:

19 CSR 30-86.032 Physical Plant Requirements for New and Existing Residential Care Facilities I and II

19 CSR 30-86.032 (8) There shall be adequate storage areas for food, supplies, linen, equipment and resident's personal possessions.

19 CSR 30-86.032 (29) Each resident shall be provided with an individual locker or other suitable space for storage of clothing and personal belongings.

19 CSR 30-86.042 Administrative, Personnel and Resident Care Requirements for New and Existing Residential Care Facilities I and II

19 CSR 30-86.042 (11) All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner which would materially and adversely affect the health, safety, welfare or property of residents. No person who is listed on the Employee Disqualification List maintained by the division as required by section 198.070, RSMo shall work or volunteer in the facility in any capacity whether or not employed by the operator.

19 CSR 30-86.042 (13) The facility must develop and implement written policies and procedures which require that persons hired for any position which is to have contact with any patient or resident have been informed of their responsibility to disclose their prior criminal history to the facility as required by section 660.317.5, RSMo. The facility must also develop and implement policies and procedures which ensure that the facility does not knowingly hire, after August 28, 1997, any person who has or may have contact with a patient or resident, who has been convicted of, plead guilty or *nolo contendere* to, in this state or any other state, or has been found guilty of any A or B felony violation of Chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo.

Introduction

No one likes to admit it, but loss and theft are facts of life. The sense of losing a valued possession brings out many emotions and feelings for which many people are not prepared.

This booklet will help educate staff and residents of long-term care facilities, and their family members about loss and theft - how to prevent it and what to do when it happens.

In Missouri, long-term care providers are acknowledging loss and theft as serious concerns among residents and their families. We all need to realize when a valuable possession is lost or stolen there is a double loss - not only is the item gone but the memories associated with it seem to vanish as well. Such a loss may strip away the only comforting item residents may have left to touch, cherish and hold dear to their heart.

When people move into long-term care facilities they may already have lost a loved one, their home, their lifestyle, or even their independence to some degree. When someone brings a cherished possession into the facility, it tends to take on more sentimental value. It can begin to feel like the only connection to their previous life. We all have a responsibility to ourselves as well as others to maintain mutual respect for personal property. No one wants to feel the loss or theft of a valued possession, so we owe it to everyone to provide a sense of security and safety for our personal belongings.



Prevention tips for residents

Label all clothing and personal items with your name, or an ID number. Be sure to use permanent ink.

Make a full inventory of all personal items. File this inventory in the facility and keep a copy for yourself. (Always update the inventory whenever you get something new or dispose of an item.)

Have your dentures, hearing aids, eyeglasses and appliances such as televisions, radios and electric razors engraved.



Take pictures of expensive items, such as engagement rings and wedding bands. These also can be engraved.

Ask for a personal locked storage space if one has not been provided. (e.g. drawer, cabinet, chest, lockers)

Report every loss or theft to the facility. (Also, you should document the loss or theft, giving the time, the area, description, and any other important factors.)

Check your Homeowner's Insurance policy to see if coverage can be extended to cover your property in a long-term care facility.

Ask to see the facility's policy on loss and theft. If an effective policy does not exist, form a committee of residents and family members to recommend new procedures.



19 CSR 30-85.042 (16) All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner which would materially and adversely affect the health, safety, welfare or property of a resident.

19 CSR 30-85.042 (20) The facility shall develop and offer an in-service orientation and continuing educational program for the development and improvement of skills of all the facility personnel, appropriate for their job function. Facilities shall begin providing orientation on the first day of employment for all personnel including licensed nurses and other professionals. At a minimum, this shall cover prevention and control of infection, facility policies and procedures including emergency protocol, job responsibilities and lines of authority, confidentiality of resident information and preservation of resident dignity including protection of the residents' privacy and instruction regarding the property rights of residents. Nursing assistants who have not successfully completed the classroom portion of the state-approved training program prior to employment shall not provide direct resident care until they have completed the sixteen (16)-hour, orientation module and at least twelve (12) hours of supervised practical orientation. This shall include, in addition to the topics covered in the general orientation for all personnel, special focus on facility protocols as well as practical instruction on the care of the elderly and disabled. This orientation shall be supervised by a licensed nurse who is on duty in the facility at the time orientation is provided.

19 CSR 30-88.010 Resident Rights

19 CSR 30-88.010 (32) Each resident shall be permitted to retain and use personal clothing and possessions as space permits. Personal possessions may include furniture and decorations in accordance with the facility's policies and shall not create a fire hazard. The facility shall maintain a record of any personal items accompanying the resident upon admission to the facility, or which are brought to the resident during his/her stay in the facility, which are to be returned to the resident or responsible party upon discharge, transfer or death.

§483.15(g) Social Services

§483.15(g)(1) The facility must provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. “Medically-related social services” means services provided by the facility’s staff to assist residents in maintaining or improving their ability to manage their everyday physical, mental, and psychosocial needs. These services might include, for example: Making arrangements for obtaining needed adaptive equipment, clothing, and personal items.

Factors with a potentially negative effect on physical, mental, and psychosocial well being include an unmet need for:

- Dental /denture care; [dentures]
- Podiatric care;
- Eye Care; [glasses]
- Hearing services; [hearing aides]
- Equipment for mobility or assistive eating devices; and
- Need for home-like environment, control, dignity, privacy

Where needed services are not covered by the Medicaid State plan, nursing facilities are still required to attempt to obtain these services.

For all State Licensed Nursing Homes:

19 CSR 30-85.042 Administration and Resident Care Requirements for New and Existing Intermediate Care and Skilled Nursing Facilities

19 CSR 30-85.042 (13) The facility shall develop policies and procedures applicable to its operation to insure the residents’ health and safety and to meet the residents’ needs. At a minimum, there shall be policies covering personnel practices, admission, discharge, payment, medical emergency treatment procedures, nursing practices, pharmaceutical services, social services, activities, dietary, housekeeping, infection control, disaster and accident prevention, residents’ rights and handling residents’ property.

Prevention tips for facilities

Complete a full inventory of all personal items upon admission and keep it on file. (Always update the inventory when the resident receives something new or disposes of something.)

Make sure all residents clothing and personal items are marked with a name and/or ID number.

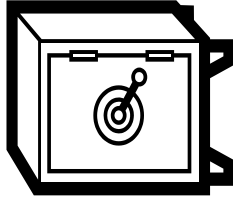
Have local police give frequent in-service training sessions to staff about the significance of loss and theft.

Distribute this booklet to all residents and families.

Name a Lost & Found coordinator, to help residents locate lost items.

Have a document that gives residents an understandable procedure to follow when they want to report a loss or theft. Post this procedure in a public place.

Provide each resident with a secure space or personal locker.



Have unclaimed, unmarked items visible for all residents and family members to see. Setting aside several specific days a month as Lost & Found days may be helpful to residents and families.

Train staff not to protect another employee who is stealing. (Offer a reward or some type of incentive for employees who reveal information.)

A facility can include residents’ belongings under its own insurance policy.

Use the facility newsletter to heighten awareness of loss and theft.

Call the police, it acts as a good preventive measure for the future.

The most important tip is for facilities to have a written policy regarding loss & theft. This policy should contain strict guidelines that are very specific and concise in definition. Above everything else, this policy needs to be enforced, and staff need to be aware of the consequences that underline this policy.

Steps to follow when property is missing

The resident should report the missing item immediately to the facility. If a resident is unable to report the missing item, then a party acting on the resident's behalf should do so. This report should be in writing and it should include a listing of the item itself, a detailed description, its value, and where the item was last seen.

Ask the facility what type of action will be taken regarding the missing item. This course of action should be in writing. Then, within a reasonable time, set a follow-up appointment with the facility.

A police report should be filed if there is evidence of foul play. This should be done either by the facility, resident, or a person acting on the resident's behalf. Just a reminder, if a resident has insurance, a police report is needed in order for the claim to be processed.



Finally if the follow-up report does not satisfy the resident, please contact the local office of the Ombudsman Program in your area (1-800-309-3282). (See back cover for locations) In some areas legal assistance can be obtained through the Ombudsman Office, if not, a referral will be made at that time.

Another option is to “Hotline” the loss or theft to the Department of Health and Senior Services (1-800-392-0210). At that time, the Division of Senior and Disability Services can conduct an investigation. This call can be made by either the parties involved or the Ombudsman, whichever way is the most comfortable for the resident.

§483.13(c) Staff Treatment of Residents

The facility must develop and operationalize policies and procedures for screening and training employees, protection of residents and for the prevention, identification, investigation, and reporting of abuse, neglect, mistreatment, and misappropriation of property.

“Misappropriation of resident property” means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident’s belongings or money without the resident’s consent. (42 CFR 488.301)

§483.13(c) Staff Treatment of Residents

The facility must—

§483.13(c)(1)(ii) Not employ individuals who have been—

- (A) Found guilty of abusing, neglecting, or mistreating residents by a court of law;
- or
- (B) Have had a finding entered into the State nurse aide registry concerning abuse, neglect, mistreatment of residents or misappropriation of their property.

§483.13(c)(1)(2) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source and misappropriation of resident property are reported immediately to the administrator of the facility and to other officials in accordance with State law through established procedures (including to the State survey and certification agency).

§483.13(c)(1)(3) The facility must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.

§483.13(c)(1)(4) The results of all investigations must be reported to the administrator or his designated representative and to other officials in accordance with State law (including to the State survey and certification agency) within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken.

Additional Information

Missouri Small Claims Court Handbook

www.mobar.org/pamphlet/smlclclam.htm

For Certified Facilities (Federally Licensed Nursing Homes accepting Medicaid and/or Medicare) State Operations Manual Appendix PP - Guidance to Surveyors for Long Term Care Facilities (Rev. 5, 11-19-04) (Rev. 8, 06-28-05)

§483.10(l) Personal Property

The resident has the right to retain and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.

§483.15(h) Environment

The facility must provide: A safe, clean, comfortable and homelike environment, allowing the resident to use his or her personal belongings to the extent possible.

§483.15 Quality of Life

A facility must care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

§483.15(a) Dignity

The facility must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

§483.13(c) Staff Treatment of Residents

The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property. Each resident has the right to be free from mistreatment, neglect and misappropriation of property.

Resident Rights

Residents can keep their personal possessions in a long-term care facility as space permits.

According to Missouri regulation 19 CSR 30-88.010 (32): **“Each resident shall be permitted to retain and use personal clothing and possessions as space permits. Personal possessions may include furniture and decorations in accordance with the facility’s policies and shall not create a fire hazard. The facility shall maintain a record of any personal items accompanying the resident upon admission to the facility, or which were brought to the resident during his/her stay in the facility, which are to be returned to the resident or responsible party upon discharge, transfer or death.”**



The long-term care facility can be held responsible for the loss and theft of personal property if the facility is negligent on its part.

According to Missouri regulation 19 CSR 30-85.042 (16): **“All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner which would materially and adversely affect the health, safety, welfare or property of a resident.”**

The facility needs to maintain a safe and secure environment to minimize the losses that are reasonably foreseeable. This can include screening all potential employees, installing locks where they are needed, and ensuring overall security in the facility. If a resident is unable to keep and use his/her property because the facility is not providing a reasonably safe environment, then the resident's rights are being violated. When the facility is not in compliance with this regulation, a deficiency is given to the facility by the Department of Health and Senior Services: Section for Long Term Care.

Small claims court

If none of these remedies have worked, try small claims court: it's quick and inexpensive. Filing a case in small claims court against the nursing home is an option when the resident believes the facility was responsible for the theft or loss of their property. Small claims court helps people handle claims of \$3,000 or less with or without the assistance of an attorney.

How to file a claim

To file in small claims court, the resident should contact their county's courthouse and ask for the clerk who handles small claims court cases. The resident should ask the clerk for a brochure that explains the small claims procedures, filing costs, and petition. Before the resident files the petition with the court, he or she should consider the following:

Must have the facility owner's name and the address of the nursing home you are suing. Ask the clerk to help you fill out the petition. In the petition, you will be the plaintiff and the owner of the nursing home will be called the defendant.

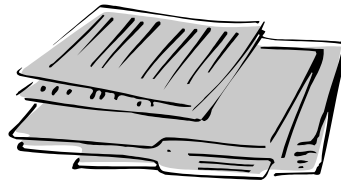
The clerk will tell you what you need to do to prepare for court and the location, date and time for your hearing.

Prepare for your hearing

Gather any materials or documents you will need to prove your case. Have these things ready on the hearing date.

Prepare a brief statement to present to the judge. Be sure to practice it before the hearing.

Decide if there are any witnesses that could provide testimony to help your case in court. Ask the clerk to subpoena a witness who you think will refuse to voluntarily testify on your behalf. Request the subpoena a few days before the hearing. There will be a court fee to do this.



Prior to the hearing, contact the clerk to see if the defendant has been served with the summons to appear. If the court has been unable to serve the defendant, ask the clerk what your options are because the hearing will probably be postponed.

What to do on the hearing day

When your case is called, take all your documents and other materials with you and walk to the front of the court.

You will be asked to explain your side of the case.

The judge will then ask the defendant to tell his or her side of the case.

Once both sides have explained their positions, the judge will determine who wins the case.

How to collect if the judge decides in your favor

The judge will order the nursing home to pay you.

The nursing home will have 10 days to appeal the judge's decision. If the nursing home files an appeal, a new judge will hear the case again.

If the nursing home does not appeal the judge's ruling and has not paid you within 10 days of the decision, contact the clerk in small claims court for assistance in enforcing the judgment.

